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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|---|---|---|---|
| 09/327,382 | 06/08/99 | OKUMOTO M | OKUMOTO=1 |

QM12/0809

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| EXAMINER | |
|---|---|
| MANAHAN, T | |
| **ART UNIT** | **PAPER NUMBER** |
| 3732 | |

**DATE MAILED:** 08/09/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

| Application No. | Applicant(s) |
|---|---|
| 09/327,382 | Okumoto et al. |
| **Examiner** | **Group Art Unit** |
| Todd E. Manahan | 3732 |

☐ Responsive to communication(s) filed on _____ .

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

☒ Claim(s) 1-9 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

**Application Papers**

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

*--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---*

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 4, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of claims 3 and 4, "and/or" is deemed indefinite.

Claim 7, line 1, "plot" should be --pilot--.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dekant (German patent No. 2,615,267).

Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brown (U.S. Patent No. 1,422,826).

Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Rizzuto et al. (U.S. Patent No. 4,870,250).

Rizzuto et al. disclose a hair styling iron comprising a first lever 7 having a grip portion 3, a plate portion 17, and a fulcrum portion; a second lever 5 having a grip portion 19, a plate portion 13, and a fulcrum portion pivotally supported by the fulcrum portion of the first plate. One or both plate portions may include an electric heater (not col. 2, line 66 thru col. 3, line 7). The plate portions include ridges 36,45 about the perimeter thereof. The first lever is provided in two pieces divided by a median plane along both sides (note figures 5 and 7) which pivotally sandwich the fulcrum portion of the second lever therebetween when assembled.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rizzuto et al. in view of Thaler et al. (U.S. Patent No. 4,581,519).

Rizzuto et al. disclose the claimed invention except for the flocking on the plate portions. Thaler et al. disclose that it is known in the art to provide a hair styling device with flocking in order to permit firm gripping of the hair, to prevent burning of the hair, and due to its softness, less likely damage the hair (col. 4, lines 12-27). It would have been obvious to one skilled in the art to provide the plate portions of the device of Rizzuto et al. with flocking in view of Thaler et al. in order to permit firm gripping of the hair, to prevent burning of the hair.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rizzuto et al. in view of Brill (U.S. Patent No. 4,939,340).

Rizzuto et al. disclose the claimed invention except for the blinking pilot light. Brill discloses it is known in the art to provide a pilot light 12 on a hair styling device to indicate that the device is on. It would have been obvious to one skilled in the art to provide the device of Rizzuto et al. with a pilot light in view of Brill in order to provide a visual indication that the device is on. To further make the light blink would have been an obvious matter of design choice to one skilled in the art.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dekant in view of Zaborowski (U.S. Patent No. 4,917,078).

Dekant discloses the claimed invention except for finger resting portions. Zaborowski discloses it is known in the art to provide a hair styling device with finger resting portions 32 on the heating plat portions thereof (note figure 2) in order that greater pressure may be applied to the plate portions without injury to the user. It would have been obvious to one skilled in the art to provide the device of Dekant with finger grip portions on the plate portions in view of Zaborowski in order to permit greater pressure to be applied to the plate portions without injury to the user. Regarding claim 9, to place such finger portions on the plate portions abutting the grip portions would merely constitute relocation of parts and thus would have been obvious to one skilled in the art.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd E. Manahan whose telephone number is (703) 308-2695.

**Todd E. Manahan**
Primary Examiner
Art Unit 3732

T. E. Manahan
August 5, 1999